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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,144	03/24/2004	Vincent Mascio	601194-2US	5278

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AKIN GUMP STRAUSS HAUER & FELD L.L.P.
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2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

EXAMINER

LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/808,144	Applicant(s) MASCIO, VINCENT	
	Examiner Benjamin H. Layno	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>07/06/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8, 10-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lofink et al. in view of Zahedi.

The patent to Lofink et al. discloses the well known Blackjack game, Spanish 21. Lofink (Spanish 21) discloses many of the steps used in playing conventional Blackjack that are recited in claims 1-8, 10-18 and 20. Lofink further includes the steps of removing all cards having face value of ten from one or more conventional decks of cards (see abstract), permitting each player to surrender after receiving two cards in exchange for one-half of the respective player's wager, col. 4, lines 6-9, requiring the dealer to take another card when the dealer has a combination of cards forming soft seventeen, col. 4, lines 1-2, and requiring the dealer to stand when the dealer has a combination of cards forming soft seventeen, col. 4, lines 4-5.

In regard to claims 8 and 18, Lofink discloses that a player may place a second wager (Double Down wager) that is separate from the first wager, col. 3, lines 40-47.

The only step recited in claims 1-8, 10-18 and 20 that Lofink lacks is "paying each player having blackjack two times (two-to-one) the respective player's wager". The patent to Zahedi discloses that it is known in the blackjack art to pay a player

having blackjack at two times (two-to-one) the respective player's wager regardless of the value of the dealer's hand, page 2, paragraph [0029]. In view of such teaching, it would have been obvious to modify Lofink's blackjack game by requiring that players having blackjack be paid two times the respective player's wager regardless of the value of the dealer's hand. This modification would have given players the perception of having a better chance at beating the house. Thus, making Lofink's game more exciting to play.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preambles of claims 1 and 8 recite "A Blackjack variation card game comprising". This is indefinite. The preambles do not clearly define what is being claimed. If a method of play is being claimed, the preamble should start "A method of playing a Blackjack game comprising the steps of: ". If a game apparatus is being claimed, the preamble should start "An apparatus for playing a Blackjack game comprising: " or "A Blackjack game apparatus comprising: ". Correction is required.

Claims 8, 9, 18 and 19 are indefinite because there is no recitation functionally relating the step of "placing a first wager" to the comparison of the player's first hand with the dealer's first hand". Also, there is no recitation functionally relating the step of

“placing a second wager” to the comparison of the player’s second hand with the dealer’s second hand”. There must be a recitation defining a player’s first hand, a player’s second hand, a dealer’s first hand, and a dealer’s second hand.

Allowable Subject Matter

5. Claims 9 and 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: None of the cited references alone or in combination teach the steps in claims 9 and 19 of “discarding all of the player’s cards in the player’s first hand, and all of the dealer’s cards in the dealer’s first hand, except the first card dealt to the dealer, dealing one card to each player face-up, dealing another card face-up **to form a second player’s hand**”, the dealer collecting the second wager of each player having a **second hand** total face value of cards less than the dealer’s **second hand** total face value of cards.....the dealer paying out one times the second wager of each player having a **second hand** total face value of cards greater than the dealer’s **second hand** total face value....” The bold print indicates insertions by the Examiner that would make the claims more definite. Similar insertions should be made throughout claims 8, 9, 18 and 19 in order to make the claims more definite.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to LeVasseur discloses the game Multiple Action

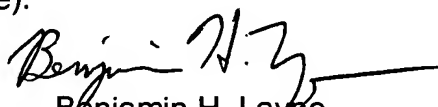
Art Unit: 3711

Blackjack wherein a player places multiple wagers in order for the player's single hand to be compared to the dealer's multiple hands. The patent Moody discloses a Blackjack game wherein a player places multiple wagers, and the player is dealt a plurality of hands. Each player's hand is compared to the single dealer's hand.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571)272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3711

bhl